

### **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed October 20, 2006. Through this response, Applicants have amended claims 20-25. Claims 36-49 have been added. Applicants have canceled claims 13-19 and 26-27 without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and pending claims 20-25 and 36-49 are respectfully requested.

#### **I. Claim Rejections - 35 U.S.C. § 103(a)**

##### **A. Statement of the Rejection**

Claims 20, 21, 23-26, 28-30, and 32-35 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Matthews, III* ("Matthews," U.S. Pat. No. 5,874,985) in view of *Hendricks, et al.* ("Hendricks," U.S. Pat. No. 5,600,573). Claim 31 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Matthews* and *Hendricks* and further in view of *Tanaka, et al.* ("Tanaka," U.S. Pat. No. 2003/0115600 A1). Claims 13-19 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Matthews* in view of *Hendricks* and *Tanaka*. Claims 22 and 27 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Matthews* and *Hendricks*, and further in view of *Jennings* (U.S. Pat. No. 5,781,186). Applicants have canceled claims 13-19 and 26-27, and have amended claims 20-25, thus rendering the rejection to these claims moot. Further, Applicants respectfully submit that claims 20-25 and 36-49 are allowable over the art of record.

##### **B. Discussion of the Rejection**

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries

expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquiries, also expressed in MPEP 2100-116, are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

#### **Independent Claim 20**

Claim 20 recites (with emphasis added):

20. A system for providing customizable multimedia messages over a television system to a communications terminal for presentation to a user, comprising:

***a first application server and a second application server, the first application server configured to generate a first message configuration and a first message content based on the first message configuration, the second application server configured to generate a second message configuration and a second message content based on the second message configuration, the first message configuration describing a first presentation format for the first message that is different than a second presentation format of the second message,*** the first and second application servers being capable of providing interactive services that enable a communications terminal to communicate over the television system;

a multimedia messaging server that receives the first and second message configurations from the first and second application servers and associates the first and second message content for presentation to a user according to the first and second message configurations, respectively, and generates a first request and a second request according to the first and second message configurations, respectively, the first and second requests including the first and second message content and first and second message configuration expressions, respectively, for delivery over a television system to the communications terminal associated with the user, the first and second message configuration expressions corresponding to the first and second message configurations, wherein the first and second application servers and the multimedia messaging server are located in the headend, the multimedia messaging server being capable of managing the delivery of the first and second requests over the television system to the communications terminal, thereby conserving system bandwidth; and

***a multimedia messaging client that receives the first and second requests and associates the first and second message content and the first and second message configurations for presentation of the first and second message content according to the first and second message configurations.***

Applicants respectfully submit that the rejections of independent claim 20 and the respective dependent claims have been rendered moot. Further, as to claim 20, Applicants respectfully submit that *Matthews* in view of *Hendricks* fails to disclose, teach, or suggest at least the above emphasized claim features. Thus, for at least these reasons, Applicants respectfully request that the rejection of claim 20 be withdrawn.

Because independent claim 20 is allowable over *Matthews* in view of *Hendricks*, dependent claims 21 and 23-24 are allowable as a matter of law for at least the reason that the dependent claims 21 and 23-24 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### **Independent Claim 25**

Claim 25 recites (with emphasis added):

25. A system for delivery of multimedia messages, comprising:  
a multimedia messaging server;

***a plurality of application servers, in which each of the plurality of application servers generates message content that has a different presentation format than a presentation format of the message content generated by other application servers of the plurality of application servers;***

***a database of predefined message configurations coupled to the multimedia messaging server;*** and

a multimedia messaging client application located in a communications terminal,

***wherein each of the plurality of application servers delivers the message content to the multimedia messaging server, which in response thereto, generates a request that comprises the message content and a reference to a location of one of the predefined message configurations for delivery over a television system to a communications terminal associated with the user,***

wherein the plurality of application servers and the multimedia messaging server are located in a headend, the multimedia messaging server being capable of managing the delivery of the request over the television system to the communications terminal, thereby conserving system bandwidth.

Applicants respectfully submit that the rejections of independent claim 25 and the respective dependent claims have been rendered moot. Further, as to claim 25, Applicants respectfully submit that *Matthews* in view of *Hendricks* fails to disclose, teach, or suggest at least the above emphasized claim features. Thus, for at least these reasons, Applicants respectfully request that the rejection of claim 25 be withdrawn.

#### **Claim 22**

With regard to the rejection to claim 22, since independent claim 20 is allowable over *Matthews* in view of *Hendricks*, and the deficiencies of *Matthews* in view of *Hendricks* are not remedied by *Jennings*, Applicants respectfully submit that dependent claim 22 is allowable for at least the reasons that dependent claim 22 incorporates the features of allowable claim 20.

Thus, Applicants respectfully submit that a prima facie case of obviousness is not been established, and accordingly, the rejection to claims 20-25 should be withdrawn.

#### **II. Official Notice**

The Office Action takes Official Notice with regard to claim 19. As Applicants have canceled claim 19, Applicants believe the rejection to be rendered moot. However, Applicants respectfully note for the record that Applicants disagree with the taking of Official Notice given the context and complexity of the claimed features and for the reason that, in view of that complexity, the conclusions did not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Further, Applicants respectfully disagree with the Office Action allegation that the prior traversals were inadequate. As set forth in the prior Response, and herein incorporated by reference, Applicants respectfully submit that all traversals were set forth as required by MPEP 2144.03.

### III. Canceled Claims

As identified above, claims 13-19 and 26-27 have been canceled from the application through this Response without prejudice, waiver, or disclaimer. Applicants reserve the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

### IV. New Claims

As identified above, claims 36-49 have been added into the application through this Response. Applicants respectfully submit that the art of record fails to disclose, teach, or suggest at least the claimed features of ***a plurality of application servers that each generate a message configuration that defines a presentation format for an associated message content, the presentation format unique to each of the plurality of application servers, a multimedia messaging server coupled to the carousel file server system, the multimedia messaging server configured to receive the message configuration from each of the plurality of application servers and associate the associated message content for presentation to a user according to the message configuration, the multimedia messaging server configured to generate a request on behalf of each of the plurality of application servers according to the message configuration, the request including a reference to a location of the message content located on the carousel file server system and a reference to a location of the message configuration on the carousel file server system, or a multimedia messaging client application retrieves the message content and the message configuration at the referenced locations of the carousel file server system and associates the message content and the message***

***configuration for presentation of the message content according to the message configuration***, as recited in claim 36.

Further, as to dependent claims 37-49, Applicants respectfully submit that for at least the reasons that the art of record fails to disclose the above-emphasized claim features in independent claims 20, 25, and 36, Applicants respectfully submit that the dependent claims 37-49 which incorporate such allowable claim features are allowable as a matter of law. Hence, Applicants respectfully request that these claims be held to be allowable.

Additionally, it is respectfully asserted that no new matter has been introduced by the newly added claims or the claim amendments.

**CONCLUSION**

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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